IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.R. No. 1961 of 2007

DATE OF DECISION : 17.04.2007

Baljit Kaur

.... PETITIONER

Versus

Darshan Singh

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. A.K. Sharma, Advocate,
for the petitioner.

Mr. Vivek Chauhan, Advocate,
for the respondent.

Petitioner Baljit Kaur has filed this petition under Article 227 of the Constitution of India for setting aside the order dated 30.3.2007, passed by Additional District Judge, Ludhiana, whereby the application filed by the petitioner-wife and the respondent-husband for waiving the statutory period of six months for passing the decree of divorce under Section 13-B of the Hindu Marriage Act (hereinafter referred to as `the Act') has been dismissed.

In this case, marriage of the petitioner and the respondent was solemnized on 3.1.1990 and two children have born from this wed-lock, who are, at present, in the custody of the petitioner. It is stated in the application that both the parties are living separately since October, 1996. It is also stated that they got a Panchayati divorce from each other in the year 1999. However, for the first time, petition under Section 13-B of the Act was filed by them in the month of February, 2007 for dissolving their marriage by decree of divorce by mutual consent and the same was adjourned for 23.8.2007 for recording statements of the parties on the

second motion. Thereafter, the petitioner and the respondent filed a joint application for waiving the statutory period of six months and for deciding the divorce petition on an early date. The trial court, after taking into consideration the judgment of the Supreme Court in ***Smt. Sureshta Devi*** v. ***Om Parkash***, AIR 1992 (Supreme Court) 1904 and a Division Bench judgment of this Court in ***Gurpinder Kaur Sahsi*** v. ***Ravinder Singh Sahsi,*** 2005 (3) Civil Court Cases 66, has dismissed the said application while observing that no exceptional circumstance has been shown by the parties for waiving the statutory period of six months.

At the time of hearing, Mr. Vivek Chauhan, Advocate, also appeared on behalf of the respondent and stated that the respondent-husband has no objection if the statutory period of six months is waived. Counsel for the petitioner, in support of his contention that in the instant case, the court should have dispensed with the statutory period of six months and passed the decree of divorce by mutual consent on the statements of the parties, has relied upon three decisions of this Court in ***Vinod Kumar*** v. ***Smt. Kamlesh***, 2001 (3) Civil Court Cases 467, ***Dharmender Singh*** v. ***Raj Bala***, 2005 (1) PLR 684 and ***Sahil Singla*** v. ***Shilpy,*** Civil Revision No. 3158 of 2006, decided on 07.06.2006.

After hearing counsel for the parties and perusing the aforesaid judgments, I do not find any illegality or infirmity in the impugned order passed by the trial court. All the aforesaid three decisions, cited by counsel for the petitioner, are distinguishable, as in all those cases disputes were pending between the parties before the court for a considerable period. In the instant case, for the first time, the parties raised the dispute and presented the petition under Section 13-B of the Act before the court in the month of February, 2007. Further, in this case, marriage of the parties was solemnized in the year 1990 and there are two children from the said marriage. In view of these facts, in my opinion, the parties should be given time and opportunity to reflect on their move and seek advise from their relations and friends about taking the mutual divorce. Thus, in the instant

case, no ground for waiving the statutory period of six months is made out. I do not find any ground to interfere in the impugned order.

Dismissed.

April 17, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**